

Effective 3/29/2014

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63G-6a-708 Justification statement -- Cost-benefit analysis.

- (1)
 - (a) In determining which proposal provides the best value to the procurement unit, the evaluation committee and the conducting procurement unit shall prepare a written justification statement that:
 - (i) explains the score assigned to each evaluation category;
 - (ii) explains how the proposal with the highest total combined score provides the best value to the procurement unit in comparison to the other proposals;
 - (iii) if applicable, includes the cost-benefit analysis described in Subsection (2) and how the cost-benefit analysis relates to the best value to the procurement unit; and
 - (iv) if applicable, includes the written determination described in Subsection (5).
 - (b) An explanation under Subsection (1)(a)(i) need not address each criterion within each category.
- (2) If, in determining the best value to the procurement unit, the evaluation committee awards the highest score, including the score for cost, to a proposal other than the lowest cost proposal, and the difference between the cost of the highest scored proposal and the lowest cost proposal exceeds the greater of \$10,000 or 5% of the lowest cost proposal, the evaluation committee and the conducting procurement unit shall prepare an informal written cost-benefit analysis that:
 - (a) explains, in general terms, the advantage to the procurement unit of awarding the contract to the higher cost offeror; and
 - (b) except as provided in Subsection (5):
 - (i) includes the estimated added financial value to the procurement unit of each criterion that justifies awarding the contract to the higher cost offeror; and
 - (ii) demonstrates that the value of the advantage to the procurement unit of awarding the contract to the higher cost offeror exceeds the value of the difference between the cost of the higher cost proposal and the cost of the lower cost proposals.
- (3) If the informal cost-benefit analysis described in Subsection (2) does not justify awarding the contract to the offeror that received the highest score, the issuing procurement unit:
 - (a) may not award the contract to the offeror that received the highest score; and
 - (b) may award the contract to the offeror that received the next highest score, unless:
 - (i) an informal cost-benefit analysis is required, because the difference between the cost proposed by the offeror that received the next highest score and the lowest cost proposal exceeds the greater of \$10,000 or 5% of the lowest cost proposal; and
 - (ii) the informal cost-benefit analysis does not justify award of the contract to the offeror that received the next highest score.
- (4) If the informal cost-benefit analysis described in Subsection (2) does not justify award of the contract to the offeror, described in Subsection (3), that received the next highest score, the issuing procurement unit:
 - (a) may not award the contract to the offeror that received the next highest score; and
 - (b) shall continue with the process described in Subsection (3) for each offeror that received the next highest score, until the issuing procurement unit:
 - (i) awards the contract in accordance with the provisions of this section; or
 - (ii) cancels the request for proposals.
- (5)

- (a) The evaluation committee, with the issuing procurement unit's approval, may waive, in whole or in part, a requirement under Subsection (2)(b) if the evaluation committee determines in writing that assigning a financial value to a particular procurement item or evaluation criterion is not practicable.
 - (b) A written determination under Subsection (5)(a):
 - (i) shall explain:
 - (A) why it is not practicable to assign a financial value to the procurement item or evaluation criterion; and
 - (B) in nonfinancial terms, why awarding the contract to the higher cost offeror provides the best value to the procurement unit; and
 - (ii) may be included as part of the justification statement.
- (6)
- (a) An issuing procurement unit is not required to make the cost-benefit analysis described in this section for a contract with a construction manager/general contractor if the contract is awarded based solely on the qualifications of the construction manager/general contractor and the management fee described in Subsection 63G-6a-707(6).
 - (b) The applicable rulemaking authority shall make rules that establish procedures and criteria for awarding a contract described in Subsection (6)(a) to ensure that:
 - (i) a competitive process is maintained; and
 - (ii) the contract awarded is in the best interest of the procurement unit.